

STATE OF MICHIGAN
COURT OF APPEALS

KEITH E. MINO, JR., and NANCY S. MINO,
Plaintiffs-Appellants,

v

CLIO SCHOOL DISTRICT, FAY LATTURE,
JOLENE PEACOCK, SALLY VANROEYEN,
WANDA EMMERLING, BRUCE
FAIRWEATHER, RON MAYGAR, JUDITH
BARRETT, VERN KAMP, and RICH LUTGENS,

Defendants-Appellees.

FOR PUBLICATION
January 14, 2003
9:25 a.m.

No. 232279
Genesee Circuit Court
LC No. 99-066407-CK

Updated Copy
March 28, 2003

Before: O'Connell, P.J., and White and B. B. MacKenzie*, JJ.

WHITE, J. (*concurring in part and dissenting in part*).

I do not agree that the instant contract violates MCL 380.1230b, and would remand regarding the breach of contract claim. The contract provided: "Unless *required by law* to do so, the Clio Area Schools will not disseminate negative information about Dr. Mino to any person or organization inside or outside of the Clio Area Schools." The statute prohibits entering into a contract that has the effect of suppressing information about unprofessional conduct or of expunging information about that unprofessional conduct from personnel records. "Unprofessional conduct" is defined by the statute:

"Unprofessional conduct" means 1 or more acts of misconduct; 1 or more acts of immorality, moral turpitude, or inappropriate behavior involving a minor; or commission of a crime involving a minor. A criminal conviction is not an essential element of determining whether or not a particular act constitutes unprofessional conduct.

The majority states that it is clear that the contractual phrase "negative information" generally encompasses the statutory phrase "unprofessional conduct." However, "unprofessional conduct" is defined by statute and encompasses a much narrower range of conduct than is defined by "negative information." Plaintiffs allege that defendant school district's agents disseminated negative information that would not fall within the statutory definition of "unprofessional conduct," including the definition of "misconduct" found in *Carter v*

Employment Security Comm, 364 Mich 538, 541; 111 NW2d 817 (1961), e.g., information about Dr. Mino's leadership style and his management of the budget.

At oral argument before this Court, plaintiffs withdrew various claims. See majority opinion, n 6. The majority opinion addresses these withdrawn claims, in subsections IV(A), and in the portions of subsection IV(C) addressing Peacock's letter regarding the union contract. Because I would not address these withdrawn claims, I do not join in those portions of the majority opinion.

Plaintiffs' remaining claims were properly dismissed.

/s/ Helene N. White